

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF NORTH CAROLINA
WESTERN DIVISION
No. 5:18-CV-587-FL

CHOICE HOTELS INTERNATIONAL,
INC.,

Plaintiff,

v.

CAROLINA SUN HOSPITALITY, LLC,
KHALID DURRANI, and FARRAH
KHALID,

Defendants.

ORDER AND ENTRY OF DEFAULT

This matter is before the clerk on the motion for entry of default [DE-18] filed by plaintiff Choice Hotels International, Inc, wherein plaintiff seeks entry of default as to all defendants.

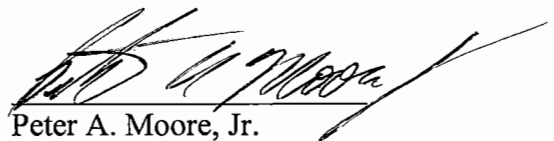
Plaintiff initiated this action on December 12, 2018, by filing the complaint in this court, naming Carolina Sun Hospitality, LLC, Khalid Durrani, and Farrah Khalid as defendants [DE-1]. On January 30, 2019, defendant Khalid Durrani, acting pro se, filed an answer [DE-7] to the complaint, ostensibly also on behalf of defendant Carolina Sun Hospitality. Plaintiff thereafter filed a motion to strike [DE-9] the answer, arguing that defendant Durrani may not answer for defendant Carolina Sun Hospitality because he is not a licensed attorney. On March 7, 2019, the Honorable Louise Wood Flanagan, United States District Judge, granted the motion to strike “as it pertains to defendant Carolina Sun Hospitality.” [DE-11] at 3. She directed plaintiff to immediately serve a copy of the order on defendant Carolina Sun Hospitality, and allowed that defendant 21 days from the date of the service of the order to appear through counsel and file a notice of appearance in this matter. Id. The answer was not stricken as to defendant Khalid Durrani.

Plaintiff filed an affidavit of service as to the order on March 7, 2019 [DE-12]. Plaintiff also sought, and the court granted, an extension of time until April 30, 2019, to perfect service as to defendants Khalid Durrani and Farrah Khalid. On April 8, 2019, plaintiff filed affidavits of service [DE-16; DE-17] as to these individual defendants, and the instant motion for entry of default as to all defendants.

In this posture, default is not appropriate as to defendant Khalid Durrani. Rule 55 of the Federal Rules of Civil Procedure provides: "When a party against whom a judgment for affirmative relief is sought has failed to plead or otherwise defend, and that failure is shown by affidavit or otherwise, the clerk must enter the party's default." Fed. R. Civ. P. 55(a). As the March 7, 2019, Order observes, the answer [DE-7] was filed by Durrani as to himself and ostensibly as to Carolina Sun Hospitality. It has been stricken only as to Carolina Sun Hospitality. Accordingly, it cannot be said that Durrani "has failed to plead or otherwise defend" in this case. The motion is therefore DENIED as to Khalid Durrani.

Neither defendant Farrah Khalid nor defendant Carolina Sun Hospitality, LLC, however, have appeared or otherwise defended in this action. Accordingly, the motion for entry of default is GRANTED as to these defendants, and default is entered as to defendants Carolina Sun Hospitality, LLC and Farrah Khalid.

SO ORDERED. This the 7 day of May, 2019.


Peter A. Moore, Jr.
Clerk of Court